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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,110	10/08/2003	Stephen James Field	0119/0027	4691
21395	7590	11/27/2007		
LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			EXAMINER MITCHELL, TEENA KAY	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 11/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/680,110	Applicant(s) FIELD, STEPHEN JAMES	
	Examiner Teena Mitchell	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-13, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipation by Russo (5,775,325).

Russo in a valve discloses a deformable member (22), said deformable member (22) having a fluid (Fig. 7) passage extending there through, and a normally-closed opening (Fig. 5) within said passage arranged such that it can be opened by external pressure applied to said deformable member (Fig. 7); and an external member (24, 25) displaceable on said deformable member with respect to said deformable member between a first position at which said external member can be released and in which said opening through said deformable member remains substantially closed and a second position in which said opening is opened and remains open when said external member is released (when the suction catheter is inserted (Fig. 7; it is inherent that if the deformable member is released once the suction catheter is inserted into the channel the opening will stay open because of the catheter, therefore reading upon the amended claim language).

Regarding claim 2, Russo discloses wherein said external member (24, 25) is arranged to remain in said first position until manual force is applied to displace it to the other position (Figs. 5, 7).

Regarding claim 3, Russo discloses wherein said deformable member is a collar (60) embracing said deformable member (22).

Regarding claim 5, Russo discloses wherein said first position is located to one side of said opening and said second position is substantially aligned with said opening (Figs. 5, 7).

Regarding claim 6, Russo discloses a rigid housing (at 20) externally of said deformable member (22) and wherein a part of said deformable member (24, 25) projects outwardly through an opening in said rigid housing for engagement by said external member.

Regarding claim 7, Russo discloses wherein said deformable member (22) has a part with an inclined surface arranged for engagement by said external member (Figs. 1, 4-7, 8, 10, and 11).

Regarding claim 8, Russo discloses wherein said housing has two openings (Figs. 1, 4-7) diametrically opposite one another, wherein said deformable member has two pads (24, 25) projecting outwardly through respective one of said openings, and wherein said pads each have an inclined surface shaped for engagement by said external member such that placement of said external member causes said pads (24, 25) to be pushed towards one another thereby opening said opening (Figs. 1, 4-7, 8, 10, 11).

Regarding claim 9, Russo discloses wherein said normally-closed opening is a slit (28) extending diametrically of said passage (Figs. 5, 7, 8-12).

Regarding claim 10, Russo discloses wherein said deformable member (22) is generally tubular and has a transverse web (29, 30) extending across its diameter and formed integrally with said deformable member, and wherein said slit (28) is provided in said web (Figs. 8-12).

Regarding claim 11, Russo discloses a substantially rigid reinforcement member (58, 59) extending parallel to said slit on opposite sides such that when force is applied externally along said slit reinforcement member is bowed outwardly to open aid slit (Figs. 8, 11).

Regarding claim 12, Russo discloses a deformable member (22) having a fluid passage extending there through; an internal seal (28) of a deformable material defining a slit (28) extending transversely of said fluid passage (Figs. 5, 7); and a substantially rigid reinforcement member (58, 59; Figs. 8, 10, 11) extending parallel to said slit on opposite sides such that when a force is applied externally along said slit said reinforcement member is bowed outwardly to open said slit (Figs. 8, 10, 11).

Regarding claim 13, Russo discloses a tubular deformable member (22), said deformable member having a fluid passage extending there through (Figs. 5, 7), a closure member (Figs. 8, 10, 11) extending across said fluid passage and having a normally-closed slit (28) arranged such that said slit can be opened by external pressure applied to said tubular member (22); and external collar (60) slidable along said tubular member between a first position in which said slit (28) remains

substantially closed when the collar is released and a second position in which said slit is opened and remains open when the collar is released (Fig. 7; it is inherent that if the deformable member is released once the suction catheter is inserted into the channel the opening will stay open because of the catheter, therefore reading upon the amended claim language).

Regarding claim 15, Russo discloses a closed suction catheter assembly comprising a suction catheter (44) and a valve (22) said valve comprising a deformable member (22), said deformable member (22) having a fluid (Fig. 7) passage extending there through, and a normally-closed opening (Fig. 5) within said passage arranged such that it can be opened by external pressure applied to said deformable member (Fig. 7); and an external member (24, 25) displaceable on said deformable member with respect to said deformable member between a first position at which said external member can be released and in which said opening through said deformable member remains substantially closed and a second position in which said opening is opened and remains open when said external member is released . (Fig. 7; it is inherent that if the deformable member is released once the suction catheter is inserted into the channel the opening will stay open because of the catheter, therefore reading upon the amended claim language).

Regarding claim 16, Russo discloses a cleaning chamber (34) located towards a patient end of said assembly, wherein said valve (22) is located towards a patient said of said cleaning chamber, and wherein said valve is openable to allow extension of said

suction catheter and is closable substantially to isolate said cleaning chamber from the patient and enable cleaning of said catheter (Figs. 1, 4-7)

Regarding claim 17, Russo discloses wherein said valve is located towards a machine end of said assembly (Figs. 1, 4-7) and is connected at a machine end of said suction catheter (44) so as to enable or prevent suctioning along said catheter.

Regarding claim 18, Russo discloses a closed suction catheter assembly (Figs. 1, 4-7) comprising a suction catheter (44), a machine end fitting (at 53) including a suction control valve (not shown at 53) arranged to control suction applied to said catheter (44), a patient end fitting (at 48) having a sliding seal (at 42) through which said suction catheter can be advanced and retracted, and a flexible envelope (31) extending between said fittings, wherein said patient end fitting includes a cleaning chamber (34) on a patient side of said sliding seal (42), said cleaning chamber including an inlet (at 35) for cleaning fluid and a valve (at 22), and wherein said valve includes a tubular deformable member (Figs. 1, 4-7; 22), said deformable member having a fluid passage extending there through, a closure member (at 28) extending across said fluid passage and having a slit (Figs. 2, 8, 10, 11) normally closed to isolate said cleaning chamber (34, Fig. 5) from the patient; and an external collar (60) slidable along said tubular member with respect to said tubular member between a first position in which said slit (28) remains substantially closed when the collar is released and a second position in which said collar applies pressure to said tubular member to open said slit and said slit remains open when the collar is released to allow the catheter (44) to be advanced from said cleaning chamber (Fig. 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.**
- 2. Ascertaining the differences between the prior art and the claims at issue.**
- 3. Resolving the level of ordinary skill in the pertinent art.**
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.**

Claims 4, 14, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (5,775,325).

Regarding claim 4, Russo discloses the claimed invention except for the external member being displaced by sliding lengthwise of said passage. At the time the external member being displaced by sliding lengthwise of said passage invention was made, it would have been an obvious matter of design consideration to a person of ordinary skill in the art to have the external member being displaced by sliding lengthwise of said passage because applicant has not disclosed that the external member being displaced by sliding lengthwise of said passage provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore,

would have expected Applicant's invention to perform equally well the external member movable in any position because the valve member would still be able to close to allow no passage of fluids when the valve is closed. Therefore, it would have been an obvious matter of design consideration to modify the external member of Russo to obtain the invention as specified in claim 4.

Regarding claim 14, note rejections of claims 8 and 4 above.

Regarding claim 18, Russo discloses a closed suction catheter assembly (Figs. 1, 4-7) comprising a suction catheter (44), a machine end fitting (at 53) including a suction control valve (not shown at 53) arranged to control suction applied to said catheter (44), a patient end fitting (at 48) having a sliding seal (at 42) through which said suction catheter can be advanced and retracted, and a flexible envelope (31) extending between said fittings, wherein said patient end fitting includes a cleaning chamber (34) on a patient side of said sliding seal (42), said cleaning chamber including an inlet (at 35) for cleaning fluid and a valve (at 22), and wherein said valve includes a tubular deformable member (Figs. 1, 4-7; 22), said deformable member having a fluid passage extending there through, a closure member (at 28) extending across said fluid passage and having a slit (Figs. 2, 8, 10, 11) normally closed to isolate said cleaning chamber (34, Fig. 5) from the patient. With respect to the external collar slidable along said tubular member between a first position in which said slit (28) remains substantially closed and a second position in which said collar applies pressure to said tubular member to open said slit (Figs. 7, 8, 11) and to allow the catheter (44) to be advanced from said cleaning chamber, not rejection of claim 4 above.

Response to Arguments

Applicant's arguments filed 9/11/07 have been fully considered but they are not persuasive. Russo is readable upon the amended claims, note rejections above pointing out the specific limitations of Russo and the newly added limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

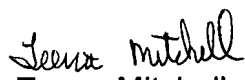
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teena Mitchell whose telephone number is (571) 272-4798. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Teena Mitchell
Primary Examiner
Art Unit 3771
November 26, 2007


TKM